IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4501 OF 2006

Himanshu @ Hemant Rajendra Bhatt .. Applicant.

V/s.

The State of Maharashtra .. Respondent.

Shri.Subhash Jha i/b.Law Global for the applicant.

Shri.S.S.Pednekar, A.P.P. for the respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 22ND DECEMBER, 2006

P.C.:

1. The applicant is arrested in connection with C.R.No.117 of 2006 registered at Bandra police station alleging offences of cheating and forgery.

2. He is arrested on 16th November, 2006.

3. The complainant has complained that the applicant alongwith others who are absconding assured that he would

get admission for his brother in D.Y.Patil Medical College. Therefore, the complainant and his brother paid a sum of Rs.20.00 lacs. A sum of Rs.5.00 lacs is admittedly paid to the present applicant in cash but the applicant according to Shri.Jha has not paid to this applicant but to some other person who is an accused and all other acts are attributed to him alone. The applicant opened a fictitious account in the name of D.Y.Patil Medical College with UTI Bank and encashed the pay orders issued in the name of the college. In such circumstances and further there being an overall settlement so also a substantial sum under the same having been paid to the complainant, the applicant deserves bail.

4. The learned A.P.P. states that the applicant has about five cases registered against him apart from the present C.R. He does not dispute that the applicant has been enlarged on bail therein. Yet, he submits that the investigations in this case are in progress and the accused are absconding, the applicant’s offer of settlement is something about which the prosecution is totally unware of.

5. Shri.Jha submits that the applicant deserves one

chance to show his bonafides. Upon release, he would pay the further sum. Without prejudice, settlement talks are in progress and a sum of Rs.7.20 lacs has already been paid and the further sum of Rs.7.80 lacs, which would be paid on or before 15th January, 2007 and 27th January, 2007 respectively.

6. The applicant is a permanent resident of Mumbai. Further, it is not pointed out that he has misused his liberty while being enlarged on bail in other CRs. The applicant has shown his willingness to abide by all such conditions as may be imposed by this court.

7. Taking into account the limited role of the applicant and his offer so also the fact that he has been detained from 16th November, 2006, he deserves to be enlarged on bail.

8. Hence, the following order : -

ORDER :

(i) Applicant is directed to be released on bail in connection with the C.R.No.117 of 2006,

registered by Bandra police station on executing personal bond in the sum of Rs.50,000/- (Rs.Fifty thousand only) with one or two local sureties in like amount.

(ii) The applicant shall not influence prosecution witnesses or tamper with the prosecution evidence in any manner, whatsoever.

(iii) The applicant shall report the concerned police station once in a week between 5.00 p.m. and 7.00 p.m. till the chargesheet is filed and thereafter as directed by the trial court. The applicant shall deposit his passport, if any, with the Investigating Machinery. The applicant shall not leave Mumbai without prior permission of the Trial Court.

(iv) The applicant shall file an Undertaking after his release, to the I.O. stating therein that he would pay a sum of Rs.4.80 lacs on or before 15th January, 2007 and balance amount of Rs.3.00 lacs within 12 days thereafter by 27th January, 2007.

(v) The order of bail will be given effect only after the applicant furnishes to the Investigating Officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating Officer.

(vi) The applicant shall co-operate for early disposal of the trial. In the event, the trial court is of the opinion that the applicant is responsible for delay in trial, that be recorded in roznama and that can be the basis for cancellation of bail.

(vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(viii) Application disposed of in above terms.

(ix) Parties to act on an authenticated copy of this order.

(S.C.Dharmadhikari, J.)